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13 Lane Lipton

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15 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

16 JAMES MCGIBNEY, an individual; and
17 VIA VIEW, INC., a corporation.

18 Plaintiffs,

19 v.

20 THOMAS RETZLAFF, an individual;
21 NEAL RAUHAUSER, an individual;
22 LANE LIPTON, an individual; and DOES
23 1-5, individuals whose true names are not
known,

24 Defendants.

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28 **CASE NO. 5:14-cv-01059-BLF**
(Assigned to Hon. Beth Labson
Freeman)

**DECLARATION OF
DEFENDANT LANE LIPTON IN
SUPPORT OF HER MOTION
TO DISMISS AND SPECIAL
MOTION TO STRIKE**

Hearing Date: September 18, 2014
Hearing Time: 9:00 am
Courtroom: 3

Amended Complaint Filed: March 17,
2014
Trial Date: None Set

DECLARATION OF LANE LIPTON

I, Lane Lipton, declare as follows:

1. I am a Defendant in this action. I have personal knowledge of the matters stated herein and, if called as a witness, I could and would testify competently thereto.

2. This Declaration is submitted in support of my Motion to Dismiss and my Special Motion to Strike Pursuant to California Code of Civil procedure Section 425.16.

3. For over ten years, I have resided in the state of New York. I maintain my principal, and only, residence in the state of New York.

4. Over the past ten 10 years, I have not engaged in any business in or involving the State of California or with any person or firm located in that state.

5. I have not set foot in State of California for over ten years.

6. I do not own any property in the State of California.

7. I have no intention to reside or own property in the state of California.

8. Since August 12, 2007, I have been writing and blogging on my websites, “qritiq.wordpress.com” and “lanelipton.wordpress.com.” Previous to that, I was a contributing writer to the paper “New York Press” and its political blog for about three years.

9. I have also posted written statements (“tweets”) on Twitter.com under my Twitter names @lanelipton, @qritiq, @OpAntiTroll, and @ACDPenny.

10. I have never made any statements, tweets, or other communications on Twitter.com using the twitter account entitled @OccupyRebellion. I have never logged into the twitter account for @OccupyRebellion. I have never possessed the password for the twitter account @OccupyRebellion. I never instructed anyone to post any tweets using the twitter account @OccupyRebellion. I do not know the identity of the individual who uses the twitter account for @OccupyRebellion.

1 11. I have never made any statements, tweets, or other communications on
 2 Twitter.com using the twitter account entitled @MissAnonNews. I have never
 3 logged into the twitter account for @MissAnonNews. I have never possessed the
 4 password for the twitter account @MissAnonNews. I never instructed anyone to
 5 post any tweets using the twitter account @MissAnonNews. I do not know the
 6 identity of the individual who uses the twitter account for @MissAnonNews.

7 12. I have never posted a written statement on Twitter.com under the twitter
 8 account name entitled @MissAnonNews_. I have never logged into the twitter
 9 account for @MissAnonNews_. I have never possessed the password for the
 10 twitter account @MissAnonNews_. I never instructed anyone to post any tweets
 11 using the twitter account @MissAnonNews_. I do not know the identity of the
 12 individual who uses the twitter account for @MissAnonNews_.

13 13. I have never used the email address she.purrs@hotmail.com. I do not
 14 know the identity of the individual who uses this email address.

15 14. I first heard of James McGibney, on or about April 12th 2013. I was not
 16 really aware of Mr. McGibney until he and some others began to harass and
 17 threaten me on twitter.

18 15. Prior to this lawsuit, I had never heard of ViaView and did not know where
 19 it was located or where it did business. I have never had any communication with
 20 ViaView.

21 16. In August 2013, McGibney tweeted me at @LaneLipton using his Twitter
 22 name @BullyVille. I recall him writing that I was “one person [Mcgibney] wanted
 23 deleted from twitter.” This was the first time he communicated directly with me.

24 17. McGibney’s Twitter account @BullyVille has been suspended.

25 18. I have never made any statement, or communication on the
 26 “bvfiles.wordpress.com” or “bvfries.wordpress.com.” about Plaintiffs. I am not the
 27 administrator of the websites “bvfiles.wordpress.com” or “bvfries.wordpress.com.”

1 I have never attempted to log into either of those sites. I do not know the identity
2 of the administrator of those sites.

3 19. I have never posted any statements on the website
4 "bvfiles.wordpress.com."

5 20. I do not know Thomas Retzlaff and have never communicated with him in
6 my life.

7 21. I know Neal Rauhauser as a blogger and have occasionally communicated
8 with him.

9 22. On October 2, 2013, Rauhauser informed me that McGibney had purchased
10 a website/domain name, referring to me, which I later found out to be
11 "lanelipton.com." Later that month, Mr. McGibney offered to return it to me, but
12 he never did.

13 23. I have never cooperated or coordinated in any way with either Retzlaff or
14 Rauhauser in any statements, tweets, or other communications to or about
15 McGibney or any of McGibney's websites.

16 24. Prior to the lawsuit, I was unaware of any contracts between Viaview and
17 third parties.

18 I declare under penalty of perjury under the laws of the State of California that
19 this declaration is true and correct.

20 Executed at Great Neck, New York on the 1st day of July, 2014.

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23 Lane Lipton

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CERTIFICATE OF SERVICE

I hereby certify that, on July 3, 2014, I caused a true and correct copy of the documents listed below to be served by electronic transfer to the CM/ECF System in accordance with the Federal Rules of Civil Procedure 5(d)(3), Local Rule 5-1, and the Northern District's General Order governing electronic filing by uploading via electronic transfer a true and correct copy scanned into an electronic file in Adobe "pdf" format to the United States District Court Northern District of California Case Management and Electronic Case Filing (CM/ECF) system on this date. It is my understanding that by transmitting these documents to the CM/ECF system, they will be served on all parties of record listed below according to the preferences chosen by those parties within the CM/ECF system.

**DECLARATION OF LANE LIPTON IN SUPPORT OF HER MOTION TO
DISMISS COMPLAINT AND SPECIAL MOTION TO STRIKE**

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/s/ Clark Anthony Braunstein
Clark Anthony Braunstein